

## HOUSE BILL NO. 91

INTRODUCED BY HARRIS

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING UNLAWFUL POSSESSION OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER BY A PERSON IN A MOTOR VEHICLE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Unlawful possession of open alcoholic beverage container in motor vehicle on highway.** (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle if the person knowingly possesses an open alcoholic beverage container within the passenger area of a motor vehicle on a highway.

(2) This section does not apply to an open alcoholic beverage container:

(a) in a locked glove compartment or storage compartment;

(b) in a motor vehicle trunk or luggage compartment or in a truck bed or cargo compartment;

(c) behind the last upright seat of a motor vehicle that is not equipped with a trunk ~~OR, IF THERE IS NO SPACE BEHIND THE LAST UPRIGHT SEAT, THEN BEHIND THE SEAT THAT IS IN FRONT OF THE LAST UPRIGHT SEAT IF THERE IS NO PASSENGER BETWEEN THE LAST UPRIGHT SEAT AND THE SEAT THAT IS IN FRONT OF THE LAST UPRIGHT SEAT;~~

(d) in a closed container in the area of a motor vehicle that is not equipped with a trunk and that is not normally occupied by the driver or a passenger; or

(e) in the immediate possession of a passenger:

(i) of a motor vehicle, including a bus, taxi, or limousine, that is used for the transportation of persons for compensation and that includes the provision of a hired driver; or

(ii) in the living quarters of a camper, travel trailer, or motor home.

(3) (A) A person convicted of the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle shall be fined an amount not to exceed \$100.

(B) A VIOLATION OF THIS SECTION BY A PASSENGER MAY NOT BE CHARGED AGAINST THE PASSENGER'S DRIVING RECORD.

**NEW SECTION.** **Section 2. Definitions.** As used in [section 1], the following definitions apply:

(1) "Alcoholic beverage" means a compound produced for human consumption as a drink that contains not less than 0.5% of alcohol by volume.

(2) "Bus" means a motor vehicle with a manufacturer's rated seating capacity of 11 or more passengers, including the driver.

(3) "Camper" has the meaning provided in 61-1-129.

(4) "Highway" has the meaning provided in 61-1-201, including the shoulders of the highway.

(5) "Motor home" has the meaning provided in 61-1-130.

(6) "Motor vehicle" has the meaning provided in 61-1-102.

(7) "Open alcoholic beverage container" means a bottle, can, jar, or other receptacle that contains ~~any amount~~ MORE THAN 1/6 OUNCE ANY AMOUNT of an alcoholic beverage and that is open or has a broken seal or the contents of which are partially removed or are immediately capable of being consumed.

(8) "Passenger area" means the area designed to seat the driver and passengers while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while the driver or a passenger is seated in the vehicle, including an unlocked glove compartment.

**NEW SECTION. Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 61, chapter 8, and the provisions of Title 61 apply to [sections 1 and 2].

**NEW SECTION.** **Section 4. Effective date.** [This act] is effective on passage and approval.

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